

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Petition of the Wisconsin Department of Transportation for the Establishment of Two Public Crossings of the Wisconsin & Southern Railroad Co. Tracks with the Thiede Trail Access and the Jonas Trail Access in the Town of Pulaski, Iowa County

9170-RX-182

Petition of the Wisconsin Department of Transportation for the Establishment of a Public Crossing of the Wisconsin & Southern Railroad Co. Tracks with the STH 78 Trail Access in the Town of Mazomanie, Dane County

9170-RX-183

SUPPLEMENTAL ORDER

On September 21, 2004, the Office of the Commissioner of Railroads (OCR) issued an order that required, among other things, the establishment of the public crossing of the Wisconsin & Southern Railroad Co. (WSOR) tracks with the STH 78 Trail Access in the Town of Mazomanie, Dane County. (crossing no. 392 015V).

The OCR subsequently determined that it has previously ordered the establishment of this crossing in 1994 (Docket Number 9163-RX-94).

The final decision stated:

The existing crossing has a 3-rail and gravel surface. The crossing is adequate for now. However, when the crossing next needs repairs those repairs shall be performed by the railroad at DNR expense. Conversion of a crossing from private to public confers maintenance responsibility on the railroad under s. 86.12 Stats. Typically when the OCR approves a new public crossing all costs are imposed on the public road authority (in this case DNR). Because of the lack of rail operations it was agreed that improvement of the crossing can be deferred, provided the DNR pays the cost when the crossing is next repaired. After the next repair the crossing will be maintained at railroad expense.

Because this crossing is already a public crossing, the WSOR already has statutory responsibility for maintaining the crossing. This Supplemental Order amends the provisions of paragraph 8, which required the Department of Natural Resources (DNR) to fund the next repair of the crossing. The WSOR shall be responsible for the cost to maintain this crossing.

THEREFORE, IT IS ORDERED,

That the provisions of paragraph 8 of the final decision be amended to read:

8. That the **Wisconsin & Southern Railroad Co.** shall maintain the crossing at-grade of **STH 78 Trail Access** with its tracks in the Town of Mazomanie, Dane County.

Dated at Madison, Wisconsin, _____.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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